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NOTIFICATIONS BY HEADS OF DEPARTMENTS, Etc.

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CHIEF COMMISSIONER OF STATE TAXES
ANDHRA PRADESH :: VIJAYAWADA.

CCT's File No. REV03-24036(31)/1/2019- DXZ SEC- CCT.

Dt. 03.05.2019

COMMERCIAL TAXES DEPARTMENT - ZONE -II - KAKINADA NODAL DIVISION -
ALLOTMENT OF DR ACTOs UNDER 10/1999 NOTIFICATION - CERTAIN ACTOs
NOT PASSED THE DEPARTMENTAL TESTS WITHIN THE PRESCRIBED
TIME - PROBATION PERIOD EXTENDED - GOVERNMENT RELAXED RULE 16(H)
OF AP STATE AND SUBORDINATE SERVICE RULES - REVISION OF DATE
OF REGULARIZATION AND DECLARATION OF PROBATION - ORDERS
ISSUED - REQUEST - RESTORING ORIGINAL PLACEMENT IN THE SENIORITY
LIST - CONSIDERED -ISSUANCE OF SHOW CAUSE NOTICE - OBJECTIONS
CALLED FOR - OBJECTIONS RECEIVED.

- Ref : 1. CCT's Ref.No:DX4/77/2001, Dt: 22.01.2001.
2. Deputy Commissioner (CT), Kakinada vide proceedings No: EI/332/2001,
Dt: 09.02.2001.
3. Deputy Commissioner (CT), Kakinada Nodal Division Proceedings No: PI/76/2006,
Dt: 13.10.2008.
4. G.O. Rt.No: 5, Revenue (CT-I) Dept, Dt: 01.01.2019.
5. Joint Commissioner (ST), (FAC), Kakinada vide proceedings No: PI/447/2007,
Dt: 16.02.2019.
6. Representations of Sri Ch. Koteswara Rao, Smt M.Seshu Kumari and
Sri K.V. Srinivasa Rao, DCTOs of Zone-II, Dt: 18.02.2019.
7. CCT's File No: REV03-24036(31)/1/2019 - DXZ SEC-CCT, Dt: 22.02.2019
8. AP Gazette No. 1345, Dt: 14.03.2019.

1. In the reference 1st cited the 19 DR ACTOs who are selected vide 10/1999 notification in the year 2001 were allotted to Kakinada Nodal Division. In the reference 2nd cited the Deputy Commissioner (CT), Kakinada appointed the 19 individuals as ACTOs.
2. In the reference 3rd cited the Deputy Commissioner (CT), Kakinada Nodal Division finalized the seniority list of ACTOs for the years 2000-01 to 2004-05.
3. Sri Ch.Koteswara Rao, presently DCTO, Suryaraopet, Vijayawada-II Division, Smt. M.Seshu Kumari, presently DCTO, Rajamahendravaram, Kakinada Division and Sri K.V.Srinivasa Rao, presently DCTO, Bhimavaram, Eluru Division have not passed the department tests within the prescribed time. Hence, their probation was extended and declared on 28.05.2006, 08.08.2004 and 11.05.2007 respectively.
4. Basing on the declaration of probation Sri Ch.Koteswara Rao, presently DCTO, Suryaraopet, Vijayawada-II Division, Smt. M.Seshu Kumari, presently DCTO, Rajamahendravaram, Kakinada Division and Sri K.V.Srinivasa Rao, presently DCTO, Bhimavaram, Eluru Division were placed at Sl.No: 25, 15 and 27 in the Kakinada Nodal Division seniority list finalized by the DC (CT), Kakinada vide Proceedings No: PI/76/2006, dt: 13.10.2008.
5. In the reference 4th cited Government relax rule 16(h) of AP State and Sub-ordinate Service Rules, 1996 in respect of 11 ACTOs of 2001 batch (presently DCTOs) for regularization of their services by declaring the commencement of probation with effect from their date of joining as ACTOs, as a special case, in exercise of the powers conferred under Rule 31 of AP State and Sub-ordinate Service Rules, 1996.
6. Basing on the Government orders, in the reference 5th cited the joint Commissioner (ST), (FAC), Kakinada declared probation to the following officers as detailed below :

Sl.No	Name of the Individual	Date of Joining as ACTO	Date of regularization of services in the cadre of ACTO	Date of completion of 2 years duty period	Date of declaration of probation
1	2	3	4	5	6
1	Sri Ch.Koteswara Rao, DCTO, O/o CTO, Suryaraopet, Vijayawada-II Division	17.02.2001 FN	17.02.2001 FN	16.02.2003 AN	16.02.2003 AN
2	Smt M.Seshu kumari, DCTO, O/o CTO, Rajahmundry, Kakinada Division	14.02.2001 FN	14.02.2001 FN	13.02.2003 AN	13.02.2003 AN
3	Sri K.V.Srinivasa Rao, DCTO, O/o CTO, Bhimavaram, Eluru Division	21.02.2001 FN	21.02.2001 FN	20.02.2003 AN	20.02.2003 AN

7. In the reference 6th cited, Sri Ch.Koteswara Rao, presently DCTO, Suryaraopet, Vijayawada-II Division, Smt M.Seshu Kumari, presently DCTO, Rajamahendravaram, Kakinada Division and Sri K.V.Srinivasa Rao, presently DCTO, Bhimavaram, Eluru Division requested for restoring their original placement consequent on the orders issued by Joint Commissioner (ST), (FAC), Kakinada vide proceedings No: Pl/447/2007, dt: 16.02.2019.
8. In the reference 7th cited Show Cause Notice was issued calling objections from the effected persons on proposed placing of Sri Ch.Koteswara Rao, presently DCTO, Suryaraopet, Vijayawada-II Division at Sl.No.13, Smt. M.Seshu Kumari, presently DCTO, Rajamahendravaram, Kakinada Division at Sl.No.6 and Sri K.V.Srinivasa Rao, presently DCTO, Bhimavaram, Eluru Division at Sl.No. 9 in the seniority list of ACTOs of Kakinada Nodal Division. The Show cause notice was published in the AP Gazette vide Gazette No. 1345, dt. 14.03.2019.
9. In response to the Show Cause Notice only one individual namely Sri B.Mallikarjuna Rao, DCTO, O/o CTO, Nidadavole filed his objections as follows:
 - The seniority list proposed to be fixed vide annexure of the Show Cause Notice dt. 22.02.2019 is based on roster point list. i.e. the appointment list communicated basing on reservation points of ST, SC, BC and Women.
 - According Rule 33 (a) of AP State and Subordinate Service Rules, the seniority among any batch shall be determined basing on the merit (marks) obtained in the concerned competitive exam, but shall not be fixed as per roster point, which purely for determining reservation points.
 - The APPSC has also categorically clarified and communicated to Hon'ble CCT vide APPSC Letter No. 1616/RS 23-8/2003, dt. 07.04.2007. On a plain & jurisprudence understanding of the said letter of APPSC, it is unambiguously to be comprehended that the seniority list among a particular batch shall be determined solely on the basis of merit (marks) obtained in the concerned competitive exam, but shall not based on roster point list. The roster points is only maintained for purpose of earmarking vacancies to the reservation categories, but not for fixing seniority among batch candidates. It is also pertinent here to brought to kind knowledge that the Hon'ble APAT, High Court and Supreme Court also pronounced in various judgment on many occasions directing to finalize seniority purely basing on merit.
 - Further, it is noteworthy here to put forth that the seniority lists of 2007 batch ACTOs, 2009 batch ACTOs of Kakinada Nodal Division have been notified solely basing on merit list, but not considering the roster point list. Therefore, in view of the above provisions and circumstances he request to order for determining the seniority of 2001 batch, Kakinada Nodal Division ACTOs exclusively basing on merit list alone as fixation of seniority on roster point system has been struck down by various higher forums on multiple occasions.
 - He further stated that the actual merit list of Kakinada Division 2001 batch ACTOs is as follows:

Merit List :

1. K. Sridhar
2. T.Panasa Reddy (Left the Dept)
3. B.Mallikarjuna Rao
4. T.Subbarao
5. K.V.Srinivasa Rao
6. T.V.Nageswara Rao
7. Ch.Koteswara Rao
8. J.Srinivasa Rao (Vijayawada Division)
9. A.Sridhar (Vijayawada Division)

- He requested to intimate his contentions are not considered before finalizing the proposed seniority list.

Reply to Objections

- The above objections filed by Sri B.Mallikarjuna Rao present DCTO has been examined. His main contention is that in the present proposed show cause notice his placement was not shown as per the merit list communicated by the APPSC in 2001 batch list. The cause of present revision of the seniority list that was finalized on 13.10.2008 is due to alteration of date of declaration of probation on account of issuance of relaxation orders by the Government under Rule 16 (h) of AP State and Subordinate Service rules, 1996 in favour of three (3) Assistant Commercial Tax Officers of Kakinada Nodal Division. This exercise of revision is limited to that extent only.
- Further, the individual claim of his placement on merit list now at this point of time that is after more than 10 years hit by laches. Earlier the seniority list of ACTOs of Kakinada Nodal Division was finalized on 13.10.2008 and in which his placement was also figuring. That said list was finalized after issuance of Show Cause Notice to the all affected parties including to the individual.
- Further, the Commissioner (CT), combined state of Andhra Pradesh while integrating the seniority list of ACTOs in respect of Nodal Divisions Kakinada and Vijayawada-I Division and also in pursuant of Government instructions and as well as Hon'ble APAT orders, before integrating, issued a show cause notice to all the affected ACTOs including to the individual and it was finalized on 01.11.2012. The individual has not filed appeal against the seniority lists dt. 13.10.2008 and 01.11.2012.
- The law serves the vigilant and not those who sleep. Therefore, he is estopped to make a claim after more than 10 years. Further, the Hon'ble Supreme Court of India ruling on seniority in service matter, reported in (1998)2 SSC 523, held that inordinate delay in making a grievance was alone sufficient to decline interference under Article 226 and to reject the writ petition. The extract of the above law laid down by Hon'ble Supreme Court of India is extracted here under for better appreciation.

“During the entire period of more than a decade they were all along treated as junior to the other aforesaid persons and the rights interest had crystallised which ought not to have been reopened after the lapse of such long period. At every stage others were promoted before 13.S Bajwa and B.D. Gupta right from the beginning as found by the Division Bench itself. It is well settled that in service matters the question of seniority should not be reopened in such situation after the lapse of a reasonable period because that results in disturbing the settled position which is not justifiable. There was inordinate delay in the present case for making such a grievance. This alone was sufficient to decline interference under Article 226 and to reject the writ petition.”

- The Government following the above decision of the Hon’ble Supreme Court of India vide circular Memo. No.57759/Ser. A/2004-1, dt. 20.05.2004 issued instructions not to entertain revision of seniority for a period which is more than three years old.
10. In view of the above, the objections made by the individual is rejected and confirmed the revised seniority list of ACTOs of Kakinada Nodal Division and annexed here with as proposed in the reference 7th cited.
11. The revised seniority list of ACTOs of Kakinada Nodal Division is subject to outcome of S.L.Ps /W.Ps/O.As/ appeals pending if any, before the Supreme Court of India, High Court of A.P/ A.PAT/ Government.

Annexure

CCT’s File No: REV03-24036(31)/1/2019 – DXZ SEC-CCT, Dt: 03.05.2019

Revised seniority list of ACTOs of Kakinada Nodal Division

Sl.No in the revised seniority list of ACTOs	Name of the individual	DOB	Date of Joining	Panel Year	Remarks
1	K.Suvarna Rani (DR) SC-B (W)	03.10.1973	16.02.2001		
2	K.Sridhar (DR)	20.06.1972	14.02.2001		
3	E.Rama Devi (DR)	15.07.1972	14.02.2001		
4	V.Srinivas (DR)	08.08.1972	01.03.2001		
5	B.Mallikarjuna Rao (DR)	12.06.1969	05.03.2001		
6	M.Seshu Kumari (DR)	05.06.1977	14.02.2001		
7	T.Subba Rao (DR)	08.05.1969	26.02.2001		
8	V.Jyothi (DR)	05.05.1969	14.02.2001		

Sl.No in the revised seniority list of ACTOs	Name of the individual	DOB	Date of Joining	Panel Year	Remarks
9	K.V.Srinivasa Rao (DR)	01.07.1969	21.02.2001		
10	A.Madhavi (DR)	21.08.1976	16.02.2001		
11	T.V.Nageswara Rao (DR)	05.05.1972	17.02.2001		
12	Kum K.Pavani (DR)	01.08.1961	01.03.2001		
13	Ch.Koteswara Rao (DR)	05.04.1974	17.02.2001		
14	V.Krishna Rao (CL)	02.10.1960	03.04.2001	2000-01	Carry forward vacancy
15	S.Kanakeswaramma	19.04.1947		2000-01	
16	Gunapalli Venkateswara Rao	15.06.1951	02.05.2006	2001-02	
17	B.S.Subramanyam	20.07.1949	07.06.2004	2002-03	
18	S.Ramana Kumari	01.06.1969	05.03.2001		Placed as per CCT's Ref:DX4/895/2011, dt: 05.10.2015
19	M.Padmavathi SC (W)-C	10.12.1954	04.05.2006	2002-03	
20	K.V.S.S.Prakash Rao	18.02.1951	02.05.2006	2002-03	
21	T.Veerabhadra Rao	10.08.1952	02.05.2006	2002-03	
22	P.Narasimha Murthy	14.04.1952	02.05.2006	2002-03	
23	K.Rama Krishna Rao	01.08.1952	02.05.2006	2003-04	
24	P.Appa Rao	23.05.1950	04.06.1997	2003-04	
25	P.Sudhakar SC-B	20.11.1962	06.06.2004	2003-04	
26	P.Jaya Kumari	03.05.1950	04.06.1997	2003-04	
27	S.Sreenivasa Rao (DR)	01.05.1975	19.02.2001	2000-01	Probation deemed to be commenced from July 2004
28	K.R.S.Valli	18.02.1951	04.06.1997	2003-04	

J. SYAMALA RAO,
Chief Commissioner (ST).